

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SABA CAPITAL MASTER FUND, LTD., and  
SABA CAPITAL MANAGEMENT, L.P.,

Plaintiffs,

-v-

MUNICIPAL INCOME FUND, INC., et al.,

Defendants.

23-cv-5568 (JSR)

ORDER

JED S. RAKOFF, U.S.D.J.:

On June 29, 2023, plaintiffs Saba Capital Master Fund, Ltd. and its investment manager Saba Capital Management, L.P. (collectively, "Saba") filed this suit against 16 funds organized under Maryland law and 11 individual trustees, alleging that the 16 funds each adopted a resolution that violates the "one share, one vote" mandate of the Investment Company Act of 1940. See ECF No. 1. The same day that it filed the complaint, Saba moved for summary judgment. See ECF No. 22. On August 15, 2023, defendants moved to dismiss under forum non conveniens because of forum selection clauses in the bylaws of 14 of the funds that, defendants argued, require this suit to be brought in state or federal court in Maryland. See ECF No. 58. On September 26, 2023, the Court granted that motion in part, dismissing the claims against 5 of the 16 funds, but denying the motion to dismiss the claims against the remaining defendants. See ECF No. 79.

Today, the Court held a telephone conference with the remaining parties. This Order will confirm the rulings made on that call.

The Court had previously stayed discovery pending resolution of the motion to dismiss under forum non conveniens, see Minute Entry of 8/7/2023, and now leaves that stay in place through December 8, 2023. The Court hereby sets the following briefing schedule for the pending summary judgment motion as well as certain further motions: Defendants must file any additional motions to dismiss, as well as opposition papers to Saba's motion for summary judgment, by Tuesday, October 31, 2023. Any defendants who do not file additional motions to dismiss must file an answer to the complaint on Tuesday, October 31, 2023. Saba must file any opposition papers to the motions to dismiss, as well as reply papers in support of its motion for summary judgment, by Tuesday, November 14, 2023. Defendants must file reply papers in support of their motions to dismiss by Tuesday, November 21, 2023. The Court will hear oral argument on all the above motions on Tuesday, November 28, at 3:30pm.

The Court intends to issue at least a "bottom-line" ruling on the above motions by Thursday, December 7, 2023. Counsel must jointly call chambers, on the same AT&T conference line used for the October 24 telephone conference, on Friday, December 8, 2023 at 11:00am to address any remaining issues. Discovery will remain

stayed through that conference call. As counsel were informed during the October 24 telephone conference, if any discovery proves necessary after resolving the above motions, the Court will set a schedule during the December 8 conference call by which discovery will be completed no later than April 15, 2024.

SO ORDERED.

New York, NY  
October 24, 2023

  
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JED S. RAKOFF, U.S.D.J.